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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PETER ALAMILLO, individually and
on behalf of all others similarly
situated,

Plaintiff,

vs.

BRINKER INTERNATIONAL, INC.,
a Texas corporation,

Defendant.

Case No.: 2:18-cv-05684-JAK-AGR

**JOINT MOTION TO TRANSFER
VENUE**

Assigned to Hon. John A. Kronstadt

MICHAEL FRANKLIN, individually
and on behalf of all others similarly
situated,

Plaintiff,

vs.

BRINKER INTERNATIONAL, INC.
d/b/a CHILI'S BAR & GRILL; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 2:18-cv-05323-JAK-AGR

Assigned to Hon. John A. Kronstadt

Plaintiffs Peter Alamillo ("Alamillo") and Michael Franklin ("Franklin") and Defendant Brinker International, Inc. ("Brinker") (collectively, the "Parties"), jointly move, pursuant to 28 U.S.C. 1404(a), to transfer this action to the United States District Court for the Middle District of Florida, where a similar case relating to the data compromise incident underlying Franklin's and Alamillo's allegations, is pending. It is stipulated between the Parties that the Middle District of Florida, Jacksonville Division has jurisdiction over this dispute and that an appropriate venue is in the United States District Court for the Middle District of Florida, Jacksonville Division.

I. BACKGROUND

On May 12, 2018, Brinker announced that some of its customers' payment card information had been compromised at certain Chili's restaurants. Twelve (12) days later, on May 24, 2018, Marlene Green-Cooper, Shenika Thomas, and Fred Sanders, individually and on behalf of all others similarly situated, commenced a lawsuit against Brinker alleging that Brinker failed to secure and safeguard its customers' credit and debit card numbers and other payment card data. *See Green-Cooper et al v. Brinker International, Inc.*, Case No. 3:18-cv-00686-TJC-MCR (M.D. Fla.) (the "*Green-Cooper Action*") (Honorable Timothy Corrigan, presiding).

On June 14, 2018, and June 27, 2018, respectively, Plaintiffs Franklin and Alamillo filed the instant cases in the Central District of California against Brinker based on the same data incident as the *Green-Cooper* action, alleging that Brinker was

1 negligent in maintaining and failed to secure and safeguard its customers' payment
2 card information.

3 Now, Plaintiffs Alamillo and Franklin and Defendant Brinker move for a change
4 of venue to the United States District Court for the Middle District of Florida,
5 Jacksonville Division, pursuant to 28 U.S.C. 1404(a). Defendant Brinker waives and
6 agrees not to assert any venue or jurisdictional challenges pursuant to *Bristol-Myers*
7 *Squibb Co. v. Superior Court*, 137 S. Ct. 1773 (2017) or its progeny provided these
8 cases are transferred to and remain before Judge Corrigan in the United States District
9 Court for the Middle District of Florida, Jacksonville Division.

10 **II. ARGUMENT**

11 Under 28 U.S.C. § 1404(a), “[f]or the convenience of parties and witnesses, in
12 the interest of justice, a district court may transfer any civil action to any other district
13 or division . . . to which all parties have consented.” 28 U.S.C. § 1404(a). The purpose
14 of a change of venue under Section 1404 is to “prevent the waste of time, energy, and
15 money and to protect litigants, witnesses and the public against unnecessary
16 inconvenience and expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 616
17 (1964) (quotation omitted). “Under § 1404(a), the district court has discretion to
18 adjudicate motions for transfer ‘according to an individualized, case-by-case
19 consideration of convenience and fairness.’” *Jones v. GNC Franchising, Inc.*, 211 F.3d
20 495, 498 (9th Cir. 2000) (quoting *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29
21 (1988)). “[T]he statute leaves a great deal to the discretion of the trial judge.” Charles
22 Alan Wright et al., 15 Fed. Prac. & Proc. Juris. § 3847 (4th ed.).

23 The Parties have agreed to transfer venue of these actions to the Middle District
24 of Florida, Jacksonville Division. The Middle District of Florida is an appropriate
25 venue for this action because a first-filed suit involving similar issues and the same
26 defendant is currently pending before the Honorable Timothy Corrigan in the United
27 States District Court for the Middle District of Florida, Jacksonville Division, Case No:
28 3:18-cv-686-TJC-MCR. Litigating in a single forum before Judge Corrigan will be

1 more cost effective and will foster judicial economy by permitting a single resolution
2 to all related claims.

3 **III. CONCLUSION**

4 For the reasons stated herein, Plaintiffs Peter Alamillo and Michael Franklin and
5 Defendant Brinker International, Inc. request that this Court grant their Joint Motion to
6 Transfer Venue and enter an order transferring this civil action to the United States
7 District Court for the Middle District of Florida, Jacksonville Division, Honorable
8 Timothy Corrigan presiding.

9
10 Dated: October 2, 2018

Respectfully submitted,

11 /s/ William B. Federman

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13 (Admitted *pro hac vice*)

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10 Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer attests that all signatories
11 listed, and whose behalf this filing is submitted, concur in its content and have
12 authorized the filing.

13 By: /s/ Tina Wolfson
14 TINA WOLFSON